

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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EDUARD LORENZ,

Plaintiff,

-against-

MANAGING DIRECTOR, ST. LUKE'S  
HOSPITAL,

Defendant.

-----X  
DEBORAH A. BATTS, United States District Judge.

This matter is before the Court upon the November 5, 2010 Report and Recommendation of United States Magistrate Judge James C. Francis IV (the "Report"). Judge Francis's Report recommends that Defendant's Motion to Dismiss the Amended Complaint (Docket # 12) be GRANTED without prejudice to the plaintiff filing a new complaint that establishes subject matter jurisdiction based on diversity of citizenship. (Report at 1.)

"Within fourteen days after being served with a copy [of a Magistrate Judge's Report and Recommendation], a party may serve and file specific written objections to the proposed findings and recommendations." Fed. R. Civ. P. 72(b)(2); accord 28 U.S.C. § 636(b)(1)(C). The district court may adopt those portions of the report to which no timely objection has been made, so long as there is no clear error on the face of the record. Wilds v. United Parcel Serv., Inc., 262 F.Supp.2d 163, 169 (S.D.N.Y. 2003). "[F]ailure to object timely to a magistrate's report

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operates as a waiver of any further judicial review of the magistrate's decision." Caidor v. Onondaga County, 517 F.3d 601, 604 (2d Cir. 2008) (quoting Small v. Sec. of HHS, 892 F.2d 15, 16 (2d Cir. 1989)). This rule applies to pro se parties so long as the magistrate's report "explicitly states that failure to object to the report within [fourteen (14)] days will preclude appellate review..." Small, 892 F.2d at 16. Despite being advised of the procedure for filing objections in Judge Francis's Report, and warned that failure to file objections would waive objections and preclude appellate review, Report at 28, Plaintiff has filed no objections to the Report.

Having reviewed the Report, and finding no clear error on the face of the record, see 28 U.S.C. § 636(b)(1)(B), it is hereby ORDERED AND ADJUDGED that the Report and Recommendation of United States Magistrate Judge James C. Francis IV, dated November 5, 2010, be and the same hereby is APPROVED, ADOPTED, and RATIFIED by the Court in its entirety. The Clerk of Court is directed to close the docket in this matter.

SO ORDERED.

Dated: New York, New York

December 2, 2010

A handwritten signature in cursive script, reading "Deborah A. Batts", written in black ink on a white background.

Deborah A. Batts  
United States District Judge